

## **REMARKS**

### **Rejection of Claims of Art Grounds in the 25 September 2007 Office Action, and Traversal Thereof**

Claims 1-15, 17-32, 34-76, 78-93 and 95-136 stand rejected under 35 U.S.C. 102(b) as being anticipated by Walton et al. (USPN 5,883,639).

Claims 18-32, 34-76, 78-93 and 95-136 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Walton et al. (USPN 5,883,639).

Claims 16, 33, 77 and 94 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Walton et al. (USPN 5,883,639).

## **ARGUMENTS**

The patent to Walton discloses a system for creating user interfaces for consumer products such as VCR's, digital voltmeters, and the like. In particular, Walton discloses a visual software engineering system and method for developing visual prototypes on a computer display and connecting user code to the visual prototypes.

In contrast to Walton, the present invention is a software development tool for generating enterprise level source code in a much more efficient manner than is achievable with the prior art, including Walton. The present invention achieves improved efficiency by providing a method having computerized steps for automatically reflecting any modifications in a source code throughout a database to avoid completely regenerating the source code. The claims of the present application are currently amended to clarify those steps of the present invention that are performed by a computer

executing computer instructions. Moreover, the independent claims of the present application are currently amended to point out that graphical representations of the source code are modified and displayed to reflect changes made to the source code.

The cited prior art reference, (i.e., U.S. Patent 5,883,639 to Walton et al.) does not disclose modifying graphical representations of source in order to reflect a modification in source code. Instead, Walton et al. teaches generating source code from user assembled graphical objects. This is an important distinction between the two inventions. In particular, the present invention allows users to directly modify source code text, which in turn is represented by modified graphical representations of source code that reflect the source code modifications. In contrast, Walton et al. discloses creating source code from the assembly of graphical objects that represent real world gauges and potentiometers, etc. Walton does not disclose steps performed by computer instructions that reflect modifications of source code by modifying the source code's graphical representations.

As stated in MPEP §2131, a claim is anticipated under §102 only if each and every element as set forth in the claim, in as complete detail is found in a single prior art reference. While Walton does disclose various computerized steps in other Figures such as Figures 6-16, none of the disclosed steps are performed by computer instructions to reflect modifications of source code by modifying the graphical representations of source code. Therefore, Walton cannot be properly held to anticipate the independent claims and their dependents as currently amended.

Moreover, the Federal Circuit has ruled on numerous occasions that a holding of "obviousness" requires some motivation, suggestion or teaching within the cited

references that would lead one skilled in the art to modify the cited reference or references as claimed by applicant. See, for example, *In re Kotzab*, 217 F.3d 1365, 55 USPQ2d 1313 (Fed. Cir. 2000):

"Most if not all inventions arise from a combination of old elements. See *In re Rouffet*, 149 F.3d 1350, 1357, 47 USPQ2d 1453, 1457 (Fed. Cir. 1998). Thus, every element of a claimed invention may often be found in the prior art. However, identification in the prior art of each individual part claimed is insufficient to defeat patentability of the whole claimed invention. Rather, to establish obviousness based on a combination of the elements disclosed in the prior art, there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the applicant. See *In re Dance*, 160 F.3d 1339, 1343, 48 USPQ2d 1635, 1637 (Fed. Cir. 1998); *In re Gordon*, 733 F.2d 900, 902, 221 USPQ 1125, 1127 (Fed. Cir. 1984). Even when obviousness is based on a single prior art reference, there must be a showing of a suggestion or motivation to modify the teachings of that reference. See *B.F. Goodrich Co. v. Aircraft Breaking Sys. Corp.*, 72 F.3d 1577, 1582, 37 USPQ2d 1314, 1318 (Fed. Cir. 1996)."

The cited Walton patent and the present application both disclose software tools. However, the applicant's method, as specifically claimed, requires steps that are different from and neither suggested nor taught by the cited reference alone or in combination with other prior art. Moreover, there is no motivation to modify the methods of the cited Walton reference to incorporate the steps claimed by the applicant, since the result would be contrary to the aims of Walton, which are to develop visual prototypes of user interfaces for real world objects such as VCR's, digital voltmeters and the like.

In contrast, the present invention is for developing enterprise level software such as that used by the banking industry, etc. As such, the present invention uses graphical representations of source code to inform the user of modifications made to the source code. The graphical representations of the present invention are automatically updated (i.e., modified) in synchronization with any modifications to the source code. Walton

does not teach nor suggest the this feature. Therefore, the independent claims and their dependents cannot be held as being obvious in view of the Walton reference.

Nor would the invention have been considered obvious under the new *KSR* standard. The examiner's evaluation of the obviousness of a claimed invention is to be guided by the recent *KSR* Supreme Court decision, that was explained to the examining corps in "Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in View of the Supreme Court Decision in *KSR International Co. v. Teleflex Inc.*", 72 Federal Register 57526 (October 10, 2007). Those guidelines are excerpted below:

An invention that would have been obvious to a person of ordinary skill at the time of the invention is not patentable. As reiterated by the Supreme Court in *KSR*, the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.* Obviousness is a question of law based on underlying factual inquiries. The factual inquiries enunciated by the Court are as follows:

- (1) Determining the scope and content of the prior art;
- (2) Ascertaining the differences between the claimed invention and the prior art; and
- (3) Resolving the level of ordinary skill in the pertinent art. *Id at 57527*

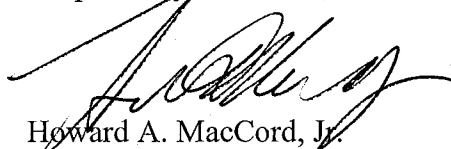
The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Court quoting *In re Kahn* stated that " '[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.' "

Here, there is no reason why one of ordinary skill in the Walton's art to consider making software as claimed. Nor would an enterprise software developer have had a reason to consider the teachings of Walton as providing guidance to issues he or she would have been dealing with.

## CONCLUSION

In view of the foregoing amendments and for the above reasons, it is believed that this application is now in condition for allowance. All current amendments come directly from cancelled claims 5,6, 29, 30, 66, 67, 90 and 91. Therefore, no new matter has been introduced. Moreover, since the current amendments come directly from previously presented claims, no new grounds for rejection are necessitated. Thus, it is respectfully requested that the claims of the present application be allowed. If unresolved issues remain, the Examiner is invited to telephone applicant's attorney at the number below.

Respectfully submitted,



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